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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION
E-6 ID#2422
RESOLUTION E-3825
July 10, 2003

R E S O L U T I O N

Resolution E-3825. Pacific Gas and Electric Company (PG&E) requests expedited approval of its Gas Supply Plan for the period of March 1, 2003, through August 31, 2003, to be used in connection with its responsibilities related to certain California Department of Water Resources (DWR or "Department") contracts which include gas tolling provisions. PG&E's request is approved as modified.

By Advice Letter 2359-E. Filed on March 25, 2003.

SUMMARY

PG&E's Gas Supply Plan, describing the utility's strategy to administer the gas tolling arrangements of DWR electricity contracts, is approved with modifications. The modified Gas Supply Plan shall be in effect for the period beginning March 25, 2003 and until its next Gas Supply Plan is approved by the Commission.

PG&E shall revise its Gas Supply Plan to conform with the terms of the Commission's Operating Order and the utility's approved Operating Agreement as well as to incorporate several approved DWR recommendations. The utility is directed to file a supplemental advice letter reflecting the required changes.

PG&E shall present a proposal in its next Gas Supply Plan for obtaining natural gas storage capacity as of April 1, 2004 which shall include minimum gas storage target levels as of May 31, 2004. Additionally, PG&E shall include proposed procedures for making available any existing unused storage or pipeline capacity holdings to the other electric utilities in connection with their administration of DWR contracts.

PG&E's next Gas Supply Plan is to be filed August 15, 2003 for the period of October 1, 2003 through March 31, 2004.

The protest of DWR is granted in part.

The protest of the Office of Ratepayer Advocates (ORA) is denied.

BACKGROUND

On October 25, 2001, the Commission opened Rulemaking (R.) 01-10-024 to establish mechanisms enabling PG&E and the state's other major electric utilities to resume purchasing electricity to meet their customer's needs.¹ The utilities were unable to procure electricity due to their financial situation and the market disruptions arising from the so-called "energy crisis". As a result, DWR was authorized to contract for electricity supplies on behalf of the customers of PG&E, Southern California Edison (SCE) and San Diego Gas & Electric (SDG&E) (hereafter referred to collectively as the "utilities"). The rulemaking was necessary because DWR's statutory authority to buy electricity was set to expire December 31, 2002. Following is a discussion of various decisions issued in this rulemaking proceeding related to the subject of this resolution.

In Decision (D.) 02-09-053, the Commission allocated the long-term DWR power purchase contracts to the resource portfolios of the utilities. As of January 1, 2003, the utilities would be obligated to schedule and dispatch the contracts while DWR would retain legal and financial responsibilities. The utilities were also instructed to integrate the DWR contracts with their existing supply portfolios and new procurement contracts and to manage these resources under the operating rule of "least-cost" dispatch.

The Commission also considered the utilities' administration of the DWR contracts containing "gas tolling" provisions. These provisions provide DWR with the option to either (i) accept the generator's price for gas used in electricity production or (ii) procure gas supplies on its own initiative. Since proper management of the gas tolling arrangements is a critical aspect of least cost dispatch, the Commission determined that the utility's operational and administrative responsibilities of the DWR contracts should apply to the implementation of the gas tolling provisions with DWR holding financial and legal responsibilities.

¹ In R.01-10-024, the Commission also will consider the treatment of renewable resources pursuant to Public Utilities Code section 701.3.

In D. 02-10-062, the Commission established the regulatory framework enabling the utilities to resume full procurement on January 1, 2003 consistent with their obligation to serve. Minimum standards of conduct were adopted governing the behavior of utility employees and outlining acceptable procurement practices. Such standards included a prohibition against self-dealing to the benefit of an affiliate of the utility and the requirement for the utilities to prudently administer all contracts and dispatch energy in a least-cost manner. The decision ordered the utilities to file updated procurement plans reflecting the allocated amounts of DWR power resulting from D.02-09-053 and expanding on risk management strategies.

In D. 02-12-069, the Commission adopted an Operating Order memorializing the obligations that DWR and the utilities would assume beginning January 1, 2003 for the administration of the allocated DWR long term power contracts. The decision also established up-front standards of review governing the utilities' administration of the DWR contracts and adopted the standards previously set forth in D. 02-10-062.^{2 3}

Among the sections in the Operating Order is "Exhibit B, Fuel Management Protocols" specifying the operating relationship between DWR and the utilities concerning management of the gas tolling provisions. Under Exhibit B of the Operating Order, the utilities, acting as a limited agent for DWR, are charged with conducting the administrative and operational aspects of the gas tolling

² D. 02-12-069, "We adopt the standards previously adopted in D.02-10-062 with the explicit inclusion of a "least-cost" dispatch requirement." (see p. 61, *mimeo*) Additionally, the decision adopted the following up-front standards of conduct:

"1. The utilities shall prudently administer all contracts and generation resources and dispatch the energy in a least-cost manner. Our definitions of prudent contract management and least cost dispatch are the same as our existing standard.

2. The utilities shall not engage in fraud, abuse, negligence, or gross incompetence in negotiating procurement transactions or administering contracts and generation resources." (D.02-12-069, Ordering Paragraph 4)

³ D. 02-12-074, granted in-part PG&E's petition to modify several standards of behavior.

provisions while DWR holds legal and financial responsibility. The exhibit provides specific guidelines governing the utilities' actions in cases where gas tolling provisions are exercised pursuant to DWR approval, as follows:

1. Utility shall use reasonable commercial efforts to deliver gas in a reliable manner and consistent with gas requirements for producing scheduled energy.
2. Utility shall develop a portfolio of gas supply for DWR Contracts that contain Fuel Options and where Utility is to procure the gas, consistent with the approved Fuel Plans. Such portfolio should be diversified in terms of price mechanism, period of performance, and gas suppliers.
3. Utility shall develop a portfolio of supply which is cost-effective relative to the market.

Additionally, the exhibit specifies that the utilities shall, acting as the limited agent of DWR, have administrative and operational responsibility for determining gas procurement strategies, including but not limited to (i) types of contracts, (ii) length of contracts, (iii) pricing terms, (iv) use of storage, (v) types of gas transportation, (vi) delivery point(s), (vii) whether and how to obtain gas price forecasts, (viii) if and what risk management tools are to be used,⁴ and (ix) how to maintain market intelligence. The utilities' are directed to consolidate these strategies in a "Gas Supply Plan".

As D.02-12-069 explains, the Gas Supply Plans serve the following purpose:

"The utilities are responsible for preparing "Gas Supply Plans "detailing their strategies for procuring gas and proposed use of risk management instruments. These plans will set parameters under which the utilities will perform various gas-related activities pursuant to the gas tolling provisions. The utilities shall file these plans for Commission approval through Advice Letter filings on a semi-annual basis. The Commission will review and approve these plans on an expedited basis. Following

⁴ In the case of gas hedging, D.02-12-069 instructed the utilities to make the final decision related to the use of risk management tools and that they should work with DWR immediately to enter into any necessary forward hedges (see p. 28, *mimeo*).

approval of the Gas Supply Plans, the utilities will negotiate with suppliers for gas supplies, transportation and storage. Negotiated agreements will then be submitted to DWR for execution.” (D. 02-12-069, p. 27, *mimeo*)

Furthermore,

“In particular, with respect to gas purchasing, transportation, storage and risk management, we believe DWR should limit its involvement to the review of the utility’s Gas Supply plans and that, following Commission approval of these plans, the utilities should be free to negotiate and present agreements for DWR execution without subsequent DWR approval.” (D. 02-12-069, p. 28, *mimeo*)

In D. 02-12-074, the Commission approved the updated short-term procurement plans filed in response to D.02-10-062 for each utility. The procurement plans provide the up-front standards by which the utilities will procure electricity to meet customer needs during 2003. PG&E’s approved procurement plan included a description of its methods for managing its generation portfolio (e.g., retained generation, contracts with Qualifying Facilities (QF), existing bilaterals, and the allocated DWR contracts) pursuant to least cost principles.⁵ Among the operating practices approved in PG&E’s short term procurement plan is the goal of managing the total open market position (proportion of energy sales or fuel costs subject to price fluctuations) of its generation portfolio below a certain threshold (referred to as “consumer risk tolerance”), which may involve hedging gas volumes associated with the DWR contracts. This decision also granted in part a petition to modify several of the standards of behavior adopted in D. 02-10-062.

On March 25, 2003, PG&E filed Advice Letter (AL) 2359-E requesting Commission review and expedited approval of its Gas Supply Plan for the

⁵ PG&E’s procurement plan is titled, “Generation Procurement Plan Testimony Responding to Decision 02-10-062”, filed November 12, 2003 in R.01-10-024.

period March 1, 2003, through August 31, 2003.⁶ The AL represents PG&E's initial Gas Supply Plan filing.⁷ The AL noted that a draft of the plan was provided to the Procurement Review Group⁸ for its review and that revisions were made based on comments received from the ORA. The utility also states that DWR reviewed the proposed plan. Furthermore, the utility determined that its Gas Supply Plan would not require changes if the Commission adopted an Operating Agreement (further described below) presented in a proposed decision issued by Administrative Law Judge Halligan in R. 01-10-024.

In its Gas Supply Plan, PG&E states that it intends to develop a portfolio of gas supplies and use transportation and storage services to provide a cost effective fuel supply for the DWR contracts and that its management of the DWR contracts is a component of its Commission approved short term procurement plan.⁹ To support strategies presented in the Gas Supply Plan, PG&E conducted an analysis of projected gas costs and volumes for two cases: 1) generators supply gas for electricity production, and 2) the utility, as limited agent of DWR, assumes the gas procurement function.

For situations where PG&E is to furnish gas supplies as a limited agent for DWR, the Gas Supply Plan presents the following items and strategies: 1) a list of gas suppliers pre-approved by DWR; 2) brokerage firms pre-approved by DWR for financial trading; 3) an interstate, intrastate, distribution and Canadian pipeline plan; 4) a gas storage plan; 5) gas price risk management strategies; 6) a gas

⁶ The protest period for the AL was extended to April 4, 2003 with replies due 3 days thereafter per PUC letter signed by Commission Executive Director, William Ahern, dated March 28, 2003.

⁷ PG&E filed a confidential version of its Gas Supply Plan pursuant to PUC Code section 583 and the May 1, 2002, Protective Order in R. 01-10-024 and circulated a redacted version. The plan consists of two appendices: Appendix A (Generator Fuel Plan Pricing Mechanisms) and Appendix B (Pipeline Storage and Tariffs).

⁸ D.02-08-071 established "Procurement Review Groups", whose members are Commission Energy Division staff, ORA, The Utility Reform Network, the California Energy Commission and other non- market participants as defined in the May 1, 2002 PUC Protective Order and who agree to execute an appropriate non-disclosure agreement. It is intended to act in a consultive fashion regarding the utility's procurement activities and plans, and has not been given authorizing capability. (see p. 24, *mimeo*)

⁹ PG&E's Gas Supply Plan notes that the utility has been supplying gas as a limited agent of DWR since early 2003 pursuant to two contracts with Calpine and that the utility was allocated a total of 21 DWR contracts. All the allocated contracts are dispatchable and 13 of these, representing 6 different counterparties, contain gas tolling provisions.

operations plan; 7) a description of the functions of its Electric Fuels Management Group; 8) gas scheduling, nomination and management of imbalances, and 9) an invoice review and approval process.

The Gas Supply Plan lists the following pricing methods PG&E intends to use for the majority of its gas purchases under the gas tolling arrangements:

PG&E AL 2359-E Gas Supply Plan Pricing Methods	
Pricing Method:	Description:
Intra-day Fixed	Fixed price for nominations during cycles 2 – 4.
Daily Fixed	Fixed price for gas the following day (cycle 1).
Monthly Fixed	Fixed price for a fixed daily volume for a calendar month.
Daily Index	Floating price for a single day, published on the day of flow by Gas Daily (or Monday for Sat, Sun & Mon).
Monthly Index	Floating price for a fixed daily volume for a calendar month, published after the close of the NYMEX contract for the month of flow by NGI.

The Gas Supply Plan lists the following risk management tools PG&E may use for the DWR contracts during the term of the plan:

PG&E AL 2359-E Gas Supply Plan Risk Management Tools		
Product:	Physical Product Use:	Financial Product Use:
Fixed Price	Buy forward at a fixed price.	None.
Index/Swap for fixed	Buy forward at monthly index.	Swap floating price for fixed.
Index/Futures+Basis	Buy forward at monthly index.	Long futures & long basis swap.
Swing Swap	Buy forward at monthly index.	Swap monthly floating price for daily floating price.
Index/Buy Call Option	Buy forward at monthly index.	Buy call option.
Index/Buy Collar	Buy forward at monthly index.	Buy collar (sell put, buy call).

Prior to receiving Commission approval of its proposed Gas Supply Plan, PG&E states it will submit all gas supply, transportation and hedge deals to DWR for review and approval before making any commitments. Once the plan is approved, the utility says it will submit all supply, transportation and storage deals not contemplated in the plan to DWR for review and approval.

Confidential items are discussed in the confidential appendix to this resolution.

Following PG&E's filing of AL 2359-E, the Commission issued D. 03-04-029 adopting Operating Agreements between DWR and PG&E and SDG&E, respectively. If these utilities file executed Operating Agreements with the

Commission, the Operating Order will no longer govern their activities with respect to the DWR allocated contracts.

On April 17, 2003, PG&E filed AL 2374-E submitting an executed copy of its Operating Agreement, effective April 17, 2003.^{10 11} As a result, the Operating Agreement supercedes the Operating Order and controls the utility's gas tolling activities and its relationship with DWR. The Operating Agreement is substantially similar to the Operating Order and maintains the general lines of authority with PG&E assuming administrative and operational duties as a limited agent of DWR and the Department retaining financial and legal responsibility. In contrast to the Operating Order, the Operating Agreement, allows DWR to impose additional limitations on the utilities' activities concerning gas supply arrangements and pipeline and storage negotiations and specifies that any such limitation shall be incorporated in the Gas Supply Plans (referred to as "Utility Gas Supply Plans" in the Operating Agreement). Additionally, the goals and guidelines covering implementation of the gas tolling agreements are somewhat modified in the Operating Agreement.

Under the Operating Agreement, the Gas Supply Plans are to be reviewed and approved by DWR as well as the Commission, with DWR notifying the Commission of its action. A remedy is adopted in cases where DWR and the Commission approve or reject different aspects of the utility's Gas Supply Plan. Where DWR only approves a subset of what the Commission approves, the utility shall operate within the sphere of DWR's approval. If, however, the Commission explicitly rejects portions of the Gas Supply Plan that DWR would authorize, then the utility must operate within the limitations of the Commission's decision.¹²

¹⁰ By PUC letter to PG&E Director of Regulatory Relations dated May 12, 2003.

¹¹ PG&E notes in AL 2374-E that it is filing a Petition to Modify D. 03-04-029 concurrently with SDG&E to correct certain errors it identified in the executed Operating Agreement with DWR.

¹² D.03-04-029, PG&E Exhibit B, Fuel Management Protocol, Section IV, Fuel Procurement Strategies: "In the event of conflicting guidance between the Commission and DWR regarding various aspects of the Gas Supply Plan they respectfully approve or reject, where DWR only approves a subset of what the Commission approves, then Utility shall operate within the sphere of DWR's approval. If, however, the Commission explicitly rejects portions of the Gas Supply Plan that DWR would authorize, then Utility must operate within the limitations of the Commission's decision."

On April 16, 2003, the Energy Division submitted a data request to PG&E about the Gas Supply Plan requesting clarification of certain plan elements, details of decision-making processes, and the status of various models and procedures said to be under development. Additionally, the utility was asked to explain how the strategies outlined in the plan support the goals and objectives of the Operating Order and Operating Agreement. On April, 24, 2003, the utility submitted a response to the data request.

NOTICE

Notice of AL 2359-E was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

On April 4, 2003, the Office of Ratepayer Advocates (ORA) filed comments in support of the AL based upon its limited review of the Gas Supply Plan. ORA noted that approval of the AL should not affect the review of the utility's actions conducted in its ERRA (Energy Resource Recovery Account) filing. Further, ORA recommends that PG&E should use DWR credit support only to produce lower expected gas prices and that the Gas Supply Plan's diverse set of tools may generate cost savings. In conclusion, ORA stated that the Gas Supply Plan is a fully featured plan providing adequate detail for Commission approval.

On April 8, 2003, PG&E submitted its response to ORA's protest disputing their characterization of the ERRA review and stating that compliance with the approved plan is the only item which will be considered in the proceeding. PG&E notes that DWR credit support is needed to quell supplier concerns about the utility's substandard credit rating and for executing hedges. Additionally, PG&E says that use of DWR credit is consistent with the Department's financial responsibility of the allocated contracts.

On April 7, 2003, DWR submitted a memorandum with comments about PG&E's Gas Supply Plan and requested some modifications. DWR generally seeks clarification about some aspects of the plan and proposes to condition the utility's actions to a set of protocols to be imposed at a later date. DWR also suggested that additional discussion about the plan was appropriate.

On April 11, 2003, PG&E submitted a public and redacted version of its response to DWR's comments. The utility generally asserts that DWR's proposal to condition approval of the Gas Supply Plan on a set of unseen protocols is unreasonable. Additionally, PG&E responded to the Department's request for clarification of certain items and agreed to adopt several suggestions involving invoice processing, gas transactions and hedges. With regard to further discussions, PG&E notes that it consulted with its Procurement Review Group and DWR staff about the plan prior to filing.

DISCUSSION

The state's major electric utilities have considerable influence over generation costs through their administration of the DWR contract gas tolling provisions. With this responsibility, the utilities gain substantial control over procuring gas supplies, negotiating for pipeline and storage capacity and related activities. Failure to properly manage these functions will harm ratepayers if avoidable costs inflate electricity rates. To demonstrate that the utilities will diligently undertake their gas tolling related duties, we required them to prepare and submit Gas Supply Plans for our approval.

Our review is focused on determining whether PG&E's Gas Supply Plan: (1) maintains the requisite operational relationship between the utility and DWR with the utility performing the required administrative activities, and; (2) shows that the utility is prepared to manage the gas tolling provisions in support of our procurement goals and objectives.

We will consider the reasonableness and effectiveness of PG&E's actions administering the DWR contract gas tolling provisions as well as compliance with its Gas Supply Plan under the processes established in D. 02-09-053. This decision specified that we will conduct a comprehensive review of the utilities' procurement activities including the administration of the DWR allocated contracts annually. As we explained in D.02-09-053, this review will be carried out as follows:

“The reasonableness of the utilities' administration of the DWR contracts we allocate today, including how they elect to dispatch the contract power quantities relative to other resources in their portfolio, shall be at issue over the life of the contracts. The forum for the Commission's review of the reasonableness of DWR contract administration shall be the annual

procurement proceeding, where the utility procurement process as a whole is reviewed.” (D.02-09-053, Ordering Paragraph 2)

With the burden to demonstrate how the DWR contracts were administered, the utility shall document and retain the analyses, forecasts and related information used to support decisions made to implement the gas tolling provisions.

Before we analyze PG&E’s Gas Supply Plan, we must consider the impact that the utility’s approved Operating Agreement, which supersedes the Operating Order, may have on our review. As discussed above, PG&E filed AL 2359-E prior to the effective date of its Operating Agreement. The utility recognized that this situation may arise and indicated that revisions to its Gas Supply Plan were not necessary under either the Operating Order or the Operating Agreement; no party challenged this contention. We note that PG&E observed our recommendation in D.03-04-029 (adopting the Operating Agreement) and furnished a draft of its Gas Supply Plan to the Procurement Review Group and DWR for their review. As such, the Gas Supply Plan may be reviewed under the Operating Agreement as filed without any additional procedural steps. Accordingly, we conclude that the terms and conditions of PG&E’s Operating Agreement apply to the utility’s gas tolling related activities as of April 17, 2003, the date that the utility’s Operating Agreement went into effect (prior to this date the Operating Order governs). We request that DWR provide written notification to the Commission regarding its approval or rejection of PG&E’s Gas Supply Plan, as contemplated under the Operating Agreement.¹³

Operational relationship with DWR and administrative duties:

Our first consideration is whether PG&E’s Gas Supply Plan maintains the clear lines of authority established for the utility and DWR in connection with the implementation of the gas tolling provisions. Under both the Operating Order and Operating Agreement (hereafter collectively referred to as the “Operating Documents”), the utility is responsible for performing all administrative and operational related activities associated with the gas tolling arrangements as a limited agent of DWR and that DWR retains any and all related legal and

¹³ D.03-04-029, PG&E Exhibit B, Fuel Management Protocols, Section IV, “DWR shall also formally notify the Commission when it has approved such plan.”

financial obligations. Activities undertaken by the utility to manage the gas tolling provisions must uphold this functional distinction. As specified in the Operating Agreement, Exhibit B, Part I (a substantially similar provision is contained in the Operating Order):

“The intent of this relationship is to provide Utility with sufficient flexibility and authority to execute normal day-to-day activities associated with managing the fuel provisions of tolling Contracts and procurement of natural gas and related services, as a limited agent acting on behalf of DWR without direct involvement by DWR but in a manner consistent with Utility Gas Supply Plans which have been reviewed and approved by DWR and the Commission.”

With this initial focus, we note that PG&E's Gas Supply Plan explicitly states that the utility will function as a limited agent of DWR and the plan contains elements called for in the Operating Documents necessary to meet its operational and administrative responsibilities. Looking at the plan in detail, we find these necessary elements included: (1) provisions for negotiating gas purchases from approved DWR gas suppliers, (2) procedures for scheduling and nominating gas supplies to generation facilities, (3) provisions for the use of pipeline and storage capacity, (4) management of imbalances, and (5) risk management procedures. The plan discusses the utility's election to manage the DWR contracts as either the Fuel Supplier or Fuel Manager in accordance with the DWR contracts.¹⁴ For day-to-day administrative functions, a Gas Operations Plan is provided showing the duties of its Electric Fuels Management Group to schedule gas supplies, monitor pipeline availability, and manage imbalances in accordance with utility rules, tariff requirements and DWR contract terms.¹⁵ The role of DWR is preserved to the extent that the utility will review and approve invoices for Department payment.

¹⁴ According to the PG&E's Gas Supply Plan, the Fuel Supplier purchases and delivers gas to the Fuel Manager at the PG&E citygate or a pre-determined location whereas the Fuel Manager receives gas from the Fuel Supplier and manages daily and monthly deliveries from the Citygate (or other point) to the plant (see discussion in Confidential Appendix).

¹⁵ Under the Operating Order, Exhibit B, Part II, Fuel Activities, under the operating documents, the utilities' activities must be consistent with the terms of the contracts with fuel options. Furthermore, D.02-12-069, p. 30, "We grant SDG&E and PG&E's request, and agree that DWR rather than the utilities should provide credit support for gas purchases related to the DWR contracts."

We find that, except for the items discussed below, PG&E's Gas Supply Plan maintains the authorized division of responsibilities between the utility and DWR and that the utility has presented a plan showing it can fulfill its operational obligations. Although the plan notes that the utility's actions may be constrained due to the terms of the DWR contracts and the Department's credit and collateral situation, we find such limitations acceptable under the terms of the D. 02-12-069.¹⁶ Adherence to the procedures presented in PG&E's Gas Supply Plan should result in delivering gas to generators in the reliable manner called for in the goals and guidelines listed in the Operating Documents.

Gas Supply Plan inconsistencies and omissions:

We find the following elements of PG&E's Gas Supply Plan to be inconsistent with the Operating Documents or contravene the required relationship between the utility and DWR:

1) PG&E states in its Gas Supply Plan that it will submit all supply, transportation and storage deals exceeding terms of three months or value of \$10 million for DWR review and approval, if the Operating Agreement is approved (see p. 18).

The Operating Agreement does not contain such terms regarding transactions involving gas transportation and storage transactions, only in the case of gas purchases. Specifically, the Operating Agreement, in Section V., Gas Purchasing contains the following: "If Utility determines it would be beneficial to enter into any DWR gas contract which exceeds 3 months or have a total value exceeding \$10 million, it shall negotiate such agreement(s) and submit them to DWR for advance approval and execution." We deny PG&E's proposal to unilaterally impose this condition for gas transportation and storage deals.

2) In its Gas Supply Plan, PG&E notes that it will assume the function of Fuel Supplier for all the gas tolling contracts but Fuel Manager only for the Calpine

¹⁶ D.02-12-069, "We grant SDG&E and PG&E's request, and agree that DWR rather than the utilities should provide credit support for gas purchases related to the DWR contracts." (see p. 30, *mimeo*)

contract.¹⁷ As Fuel Supplier, PG&E purchases gas and delivers it to the Fuel Manger at the citygate or pre-determined location. As Fuel Manager, PG&E receives gas from the Fuel Supplier and manages daily and monthly deliveries from the citygate (or other point) to the plant. According to the Gas Supply Plan, the Fuel Manager is also responsible to manage monthly and daily balancing. The reason PG&E is not willing to assume the role of Fuel Manager for the GWF and Wellhead contracts is because these are peaking plants and the Fuel Manager would be required to assume this role for both the DWR dispatch and generator's merchant dispatch. PG&E claims that assuming the Fuel Manager function in these cases is beyond the scope of the Operating Documents. For the Calpeak contract (also a peaking plant), PG&E seeks to be the Fuel Supplier only because the generator "strongly prefers" the Fuel Manager to supply fuel for its merchant dispatch. PG&E says that contract terms prohibit the utility from being the Fuel Manager for the PacifiCorp contract.

We find PG&E's explanation of its decision to take the role of Fuel Supplier and Fuel Manager acceptable, except in the case of the Calpeak contract. Under the Operating Documents, PG&E has full administrative and operational responsibility for monitoring and managing the daily status of gas usage and gas deliveries. We will direct PG&E to serve as Fuel Supplier and Fuel Manager of the Calpeak contract since the utility is allowed to act as Fuel Manager for its own dispatch quantities (although Calpeak apparently objects to this limited role). Thus, PG&E will be meeting its obligations to manage gas imbalances as contemplated under the Operating Documents.

We will require PG&E to absorb any imbalance penalties caused by the utility acting as a limited agent of DWR for all the gas tolling provisions it administers in the capacity as Fuel Supplier, Fuel Manager or both, in accordance with the Operating Documents.

3) PG&E's Gas Supply Plan states that it will add to its list of financial risk management products, subject to DWR concurrence (see p. 23).

¹⁷ Under the Operating Documents, PG&E's election to supply fuel under the DWR gas tolling provisions is subject to DWR approval.

The Operating Order does not condition the approval of such products on DWR approval. The Operating Agreement stipulates that the utility's activities under the Gas Supply Plan are subject to both Commission and DWR approval. We require PG&E to observe this condition when seeking to add to its list of risk management products.

Additionally, the Gas Supply Plan lacks procedures for forwarding negotiated arrangements for gas supplies, pipeline, storage and related services to DWR for execution as contemplated in the Operating Documents. The plan also fails to specify that all negotiated agreements will specifically authorize the utility to act for and on behalf of DWR as a limited agent. We direct the utility to observe these protocols and establish the necessary implementation procedures to meet these obligations.

Gas Supply Plan decision-making processes and Commission objectives:

In addition to ensuring that the Gas Supply Plan contains the required elements and maintains the proper operational relationship between PG&E and DWR, we must also examine whether strategies described in the plan support our procurement proceeding objectives. This is an important consideration since approval of the Gas Supply Plan will give PG&E additional discretion to negotiate with suppliers for pipeline and storage services and other activities, which may directly impact generation costs.

Under the minimum standards of behavior adopted in D. 02-10-062, as modified in D. 02-12-074, the utilities are required to manage their generation resources, including the DWR allocated contracts, in the following fashion:

“Prudent contract administration includes administration of all contracts within the terms and conditions of those contracts, to include dispatching dispatchable contracts when it is economical to do so. In administering contracts, the utilities have the responsibility to dispose of economic long power and to purchase economic short power in a manner that minimizes ratepayer costs. Least-cost dispatch refers to a situation in which the most cost-effective mix of total resources is used, thereby minimizing the cost of delivering electric services.” (D.02-12-074 p. 74, *mimeo*, emphasis added)

A critical aspect toward achieving this least-cost objective is that the utilities are to manage the gas tolling provisions in a fiscally responsible manner. This

principal was expressed in D.02-12-069, which extended the standards of behavior to include the administration of the DWR allocated contracts and adopted up-front standards as well. According to D.02-12-069:

“Gas tolling provisions are not unusual in contracts that involve combustion turbine technologies. From an operational standpoint, they provide the contract administrator with an opportunity to minimize an important component of variable costs (i.e., fuel) under these contracts through the regular review of fuel plans and consideration of alternate gas supply options. The utility, and not DWR, should now assume this function because it goes hand in hand with the objective of economic dispatch (to minimize operating costs) for which the utility is now clearly responsible.” (D.02-12-069, p. 48, *mimeo*)¹⁸

The goals and guidelines specified in the Operating Documents require PG&E to develop a diversified gas portfolio that is to be reasonably priced and cost effective relative to the market.

With these considerations in mind, we will examine the strategies presented in PG&E’s Gas Supply plan to determine whether the utility’s decision-making processes will support our objectives and can produce results in the interest of the state’s ratepayers. These strategies are: gas procurement, pipeline and storage use, and risk management.

Gas procurement:

PG&E states in its Gas Supply Plan that it intends to build a cost-effective fuel supply for the DWR contracts. The utility says it will develop a diverse gas supply portfolio using a variety of pricing mechanisms and different DWR approved suppliers. These pricing methods include the use of floating and fixed products with varying durations and gas volumes. A list of DWR approved gas suppliers are included in the plan, which PG&E must use. PG&E says it will establish accounts with these suppliers to conduct transactions as a limited agent of DWR. The utility indicates that it will use these suppliers subject to DWR credit limits and will seek to add approved suppliers if necessary. Gas

¹⁸ The Operating Agreement contains goals and guidelines supportive of this dispatch performance standard.

purchasing decisions are said to be based upon a ranking of procurement options using market factors.

We emphasize that PG&E must take steps to minimize gas supply costs particularly since such expenses are estimated to be a significant amount. To manage the gas procurement function, we find that PG&E's gas procurement strategy of using a combination of different pricing methods should provide the utility with flexibility to respond to favorable market conditions and to synchronize gas purchases with its intended dispatch regimen. Also, using different DWR approved gas suppliers and purchasing gas at various delivery points should result in supply basin diversity. Additionally, spreading gas purchases among several different suppliers can minimize the potential risk of a supplier's non-performance due to adverse financial conditions. Basing its gas purchasing decisions on economic considerations should enable PG&E to obtain attractively priced gas supplies relative to the market.

Pipeline and storage capacity and use:

PG&E describes in its Gas Supply Plan the general methods it will use to consider the use of interstate, Canadian, intrastate, distribution pipeline and storage capacity to service the gas tolling arrangements. The utility also evaluated the use of the pipeline capacity it assumed with the PacifiCorp contract (on TransCanada Alberta, TransCanada British Columbia and PG&E Gas Transmission Northwest) and Wild Goose Storage inventory and injection/withdrawal rights acquired by DWR. Similar to the approach it will use for its gas purchasing decisions, PG&E says in the plan it will also base its use of these assets on market conditions.

We note that PG&E's responsibility to negotiate terms for pipeline or storage capacity as well as utilize existing assets represents a significant opportunity for the utility to reduce gas tolling related electric generation costs. While the utility's Gas Supply Plan includes the utility's initial decision regarding the use of pipeline and storage capacity, the plan lacks sufficient detail to examine how these decisions were made and whether it intends to continue to monitor the market for opportunities to obtain or use these services. In its reply to the Energy Divisions data request, the utility provided insights into factors used to support its decisions as well as its intentions to evaluate its position on an ongoing basis. This showing indicates that the utility will base its decisions on market factors potentially resulting in cost benefits consistent with our

procurement objectives. We remind the utility to observe the Operating Documents stipulation that the utility is responsible to recommend to DWR those pipelines it intends to use to transport gas.

Furthermore, PG&E notes in its Gas Supply Plan that it has access to firm natural gas storage capacity through the DWR contract with Wild Goose Storage, through March 31, 2004. PG&E also notes that, although it will be monitoring market conditions to determine if storage will be economical, its most recent analysis indicates that storage is not economical. This is because forecasted natural gas prices do not show enough of an increase in future months to incur carrying costs for gas in storage.

The Commission is very concerned about the upward trend in natural gas prices, and the increasing volatility in natural gas prices. One of the reasons for these high prices and increasing volatility is the low level of natural gas in storage nationally. The lack of natural gas in storage by noncore customers was one of the contributing factors to high natural gas prices in California in 2000-2001. We believe that storage should be considered for use by the state's electric utilities as a hedge against high natural gas prices, particularly during the summer. The use of storage may be beneficial not only for a particular utility's customers, but for the state as a whole. It may help to lower the volume of flowing supplies that will be purchased during the summer, and thus help keep prices in check statewide.

At this point in time, we are already well into the summer, and we do not have an adequate record to determine in this resolution what would be an appropriate amount of storage for this summer. Nor do we have adequate information to say exactly how much storage capacity should be obtained. (Also, we note that the current natural gas supply picture for the state is improving and appears adequate for this time of year. Positive storage injections have been occurring in the spring, bringing in-state storage levels up to the average level over the previous 5 years. Hydro conditions are near to normal, and the Kern River Pipeline Expansion began operation in May 2003, and is delivering significant gas supplies to California.) Looking to the future, we will order PG&E and the other electric utilities to prepare a proposal for their next Gas Supply Plans, due August 15, 2003, for possibly obtaining natural gas storage capacity as of April 1, 2004. This should include a proposal for minimum storage targets as of May 31, 2004. The utility's proposed gas storage plan shall also include estimated storage related costs (e.g., inventory, injection/withdrawal, etc.).

Moreover, we will direct PG&E to include a proposal in its next Gas Supply Plan on procedures the utility can employ to make the Wild Goose storage and PacifiCorp pipeline capacity available to the other utilities in connection with their administration of the DWR contracts in the event the utility elects not to utilize these assets. The proposal should also discuss circumstances for brokering any unused storage and pipeline capacity in order to reduce the DWR revenue requirement and propose methods for directing any resulting revenues to DWR.

An additional consideration is the extent that PG&E may engage in inappropriate self dealing with its affiliates or operating divisions. Such abuse is possible since PG&E owns and markets, through its Golden Gate Market Center operation, gas storage (in direct competition with Wild Goose Storage) and intrastate backbone transmission services. As a case in point, PG&E is proposing using parking and lending services with the Golden Gate Market Center under the Gas Supply Plan for managing imbalances. Additionally, PG&E Gas Transmission Northwest, a pipeline connecting western Canadian gas pipelines to the utility's backbone transmission system is controlled by a utility affiliate.

In D.02-10-062, we adopted standards of behavior that the utilities' must observe in connection with their procurement practices. For transactions with affiliates, Standard of Behavior No. 1 is applicable and specifies the following:^{19 20}

"Each utility must conduct all procurement through a competitive process with only arms length transactions. Transactions involving any self-dealing to the benefit of the utility or an affiliate, directly or indirectly, including an unaffiliated third party, are prohibited." (D.02-10-062, p. 51, *mimeo*)

¹⁹ D.02-10-062, placed a moratorium on SCE, PG&E and SDG&E dealing with their own affiliates in procurement transactions, beginning January 1, 2003, lasting for two years or until the rulemaking is completed, whichever date is first. (see p. 50, *mimeo*)

²⁰ D.03-06-067, "Gas Procurement for the utilities' DWR is a hybrid: it should follow the same standards as gas procurement for the utilities' own contracts, yet it is reviewed under a separate Gas Supply Plan, with the review conducted annually in conjunction with DWR contract administration and least-cost dispatch." (see p. 10, *mimeo*)

To the extent that PG&E will consider using a utility affiliate to provide service for the DWR contracts, it must obtain a waiver from this prohibition through a petition to modify D.02-10-062.

In cases where PG&E is considering use of its utility owned facilities and services, we are concerned about PG&E's ability to engage in earnest negotiations as an agent of DWR for services offered and provided by the utility.²¹ In some cases there may be competitive alternatives available to PG&E and that the utility has discretion to use its own facilities or those of another provider (e.g., gas storage). A conflict of interest is inherent in such bargaining because the utility has opposing goals to increase utility profits yet protect the interests of DWR, the principal, and minimize costs. To remedy this conflict, we need a standard to gauge whether PG&E's negotiated prices for these services on behalf of DWR are the product of the competing interests of a buyer and seller in an arm's length transaction. An additional factor for consideration are PG&E's request for offers (RFO) and bids received from competitors to provide services. We expect PG&E to seek such bids in all cases where competitive services are available.

For PG&E's initial Gas Supply Plan, we will adopt the following presumption of reasonableness standard. We will presume in such cases where an RFO is issued and offers are received that a reasonable price is paid if PG&E's charge to DWR for the use of the utility's facilities or services is the same as or lower than the bid(s) received. In cases where there are no competitive alternatives for comparison, we will presume that a reasonable price is paid if PG&E's charge to DWR for the use of the utility's facilities or services is either: 1) the tariff recourse rate for the service; or 2) if the price is negotiated, no higher than the volume weighted average of the price the utility negotiated (except for DWR) for each similar service in the same month and for the same period the service is provided. PG&E will be required to show why any transaction entered into above the weighted average price level was appropriate and reasonable. Whether the utility's decision to use such services was prudent will be considered in our reasonableness review.

²¹ In some instances PG&E's tariff allows the utility to negotiate prices with their customers for certain services (e.g., parking and lending).

PG&E is directed to provide on a confidential basis the volume weighted average of the prices PG&E negotiated for these services with all customers (excluding deals for DWR) for the same periods as those services entered into on behalf of DWR to the Commission's Energy Division staff. PG&E shall also retain RFO's and bids involved in the consideration of using the services of competitors and provide these to the Commission's Energy Division staff as well.

Since this is the initial application of this standard, it may need to be revised based upon the utility's experience operating as a limited agent of DWR. To invite additional comments and views on the use of this standard, we will require PG&E to include it in the public version of its next Gas Supply Plan filing.

Risk management:

PG&E explains in its Gas Supply Plan that its gas price risk management strategy for its allocated DWR contracts is part of the utility's overall electric and fuels portfolio management program. The utility's objective is to manage the dollar value of its net open position (which includes DWR gas volumes) in accordance with the consumer risk tolerance approved in its short-term procurement plan. Goals set for the duration of the Gas Supply Plan include: (1) evaluating the price risk position of the DWR portfolio on a regular basis, (2) executing hedges where appropriate, (3) developing a standard set of hedges, (4) establishing a pre-approved process with DWR for execution and, (5) documenting risk management procedures and controls. PG&E presents an initial list of risk management tools it may use involving products based on fixed and floating prices, swaps and options. The plan describes steps PG&E will take to determine when it is appropriate to reduce the portfolio's exposure to price risk for its own customer's needs and for surplus power sales, subject to DWR credit and collateral limitations. The plan also includes a list of DWR approved brokers.

We cannot overstate the importance that the utilities possess the right tools and managerial skills necessary to oversee their generation portfolios during this period of extreme gas price volatility and high gas prices. Particularly, since the DWR gas tolling contracts represent a significant volume of gas which must be protected from adverse price movements in accordance with PG&E's approved short term procurement plan. We recognized this need in D.02-12-069, wherein we instructed the utilities to begin considering entering into hedges prior to the

first of the year and allowing them to make the final decision on any hedging for the DWR contract related gas supplies.²² Similarly we expect the utility is considering (if it has not taken steps already) what gas hedges should be applied in advance of the upcoming winter and should be ready to take appropriate action. PG&E should seek the counsel of its PRG in the event it needs guidance for this such activity.

In its Gas Supply Plan, PG&E described the circumstances where it will hedge gas costs and identified a variety of financial products it will use to do so. On this subject, ORA commented that,

“PG&E in its GSP (Gas Supply Plan), proposes to use a wide variety of tools such as basis hedges, forward contracts, option contracts, floating-to-fixed contracts, as well as both financial and physical hedges. Under the GSP, trades could be executed via NYMEX, broker-assisted trades, RFOs, and bilateral agreements. Since each particular trading tool has its own unique risk factors, the use of a variety tools will diversify both ratepayer and shareholder risk; thereby leading to potential costs savings.” (p. 1)

We concur with ORA’s assessment of PG&E’s array of risk management tools and note that the utility has included in its Gas Supply Plan its intent to manage the gas related DWR gas volume in connection with its approved short-term procurement plan. This approach is consistent with our directive that the utilities integrate the DWR contracts with their other generation resources, and as expressed in D. 02-09-053, wherein we stated, “The utilities shall not ... make artificial distinctions between DWR contracts and other resources in their resource portfolio.” (see Ordering Paragraph 5)

Furthermore, in PG&E’s response to the Energy Division data request, the utility clarified certain risk management issues and noted that it will continually update gas price forecasts to make risk management decisions. While the utility indicated that DWR monitors the creditworthiness of approved counterparties, counterparty credit risk remains a concern and we note that the utility is not bound under the Operating Documents to use only DWR approved counterparties. (PG&E notes that the use of NYMEX OTC clearing significantly

²² D.02-12-069, p. 28, *mimeo*

lessens this risk). To mitigate such risks, we will restrict PG&E to use only DWR approved counterparties for over-the-counter (OTC) transactions unless the utility perceives this condition will unduly restrict its ability to meet its authorized consumer risk tolerance levels or adequately protect its portfolio from price risk. We direct PG&E to work with DWR to develop an alternative to using DWR approved OTC counterparties if such a limitation is too restrictive or problematic.

We believe that PG&E's risk management strategy (plus the use of gas storage as discussed above) should enable the utility to adequately protect its ratepayers from unfavorable gas price movements within its authorized consumer risk tolerance threshold and help ensure that surplus electricity is sold at a gain.

In sum, we find that PG&E's decision-making strategies support our procurement objectives. As we discussed above, the effectiveness of these strategies will be considered separately.

Actions outside scope of approved Gas Supply Plan:

PG&E states it will submit all gas supply, transportation and storage deals not contemplated in the Gas Supply Plan to DWR for review and approval. While PG&E's plan is designed to be responsive to market conditions, it is possible that a situation may arise not accounted for in the plan. Barring the utility from conducting actions outside the plan if extraordinary conditions occur runs the risk that prudent actions may fail to be executed. To prevent this situation, we will provide PG&E with the flexibility to engage in transactions outside the scope of its Gas Supply Plan, however, only if it is necessary for the utility to conduct its administrative and operational responsibilities consistent with Commission decisions and that demonstrable benefits will result for its ratepayers. However, we caution PG&E that DWR approval of any actions beyond the scope of the approved plan, or while the Gas Supply Plan filed by PG&E was pending our approval, would not insulate the utility from possible Commission sanction if actions are taken in violation of Commission orders or color our reasonableness review.

We will require the utility to document, describe the circumstances and resulting benefits of all instances where it was necessary to operate outside the parameters of its approved Gas Supply Plan. PG&E shall notify DWR and the Commission's Energy Division when it contemplates conducting such an action.

Justification of such transactions will be scrutinized in our reasonableness review of the utility's administration of the DWR contracts.

Consideration of Party Comments:

We next consider the issues and suggestions raised by the parties in their comments.

ORA supports approval of PG&E's Gas Supply Plan, but notes that its position should not prejudice its standing in the utility's ERRA review. Additionally, ORA recommends that PG&E should limit its use of DWR credit support only when it will result in lower expected gas prices. In response, PG&E says that the scope of the ERRA review for activities under the Gas Supply Plan is limited to evaluating whether or not PG&E's activities in the area comply with its Gas Supply Plan. The utility also claims that DWR credit support is crucial to allow the utility to conduct transactions with counterparties due to its own distressed financial situation.

We disagree with ORA's and PG&E's interpretation of the purpose of the ERRA balancing account. In D. 02-10-062, we established the ERRA to record costs related to the utilities' retained generation, qualify facilities (QF) contracts, bilateral contracts and other approved items. The issue of the administration of the DWR contracts it was allocated and associated gas tolling provisions will be conducted in the annual procurement review process established in D.02-09-053. In addition, we deny ORA's recommendation concerning the use of DWR credit support. In D. 02-12-069, we stated that DWR rather than the utilities should provide credit support for gas purchases related to the DWR contracts.²³ Use of DWR credit and collateral for other activities is in keeping with the Department's financial obligations.

In its comments, DWR generally seeks to incorporate or impose certain items and conditions into PG&E's Gas Supply Plan and requests clarification of various items in the plan. We will consider each of the issues presented by DWR, summarize PG&E's response, and then provide our position.

²³ D.02-12-069, p. 30, *mimeo*.

Issue 1:

DWR raises concerns about the gas volumes associated with PG&E's gas forecast related to a contract with PacifiCorp. DWR notes that gas volumes show a decrease during a period where usage would be expected to be higher.

PG&E states that its forecast of the PacifiCorp contract is based upon the assumption that the generator would invoke provisions under its contract to curtail production under certain conditions.

We find PG&E's explanation credible and, therefore, will not require the utility to modify its forecast.

Issue 2:

DWR notes that most of PG&E's financial hedge mechanisms depend on the validity of published gas price indices and, in reference to concerns about manipulation, the Department believes that the utility should explain why these indices are valid, what risks are associated with their use, and what monitoring it should undertake to ensure that the indices are reliable.

PG&E states that it is the terms of the gas tolling provisions which require it to depend on indices for physical gas supplies and hedging tools and that efforts are underway at FERC and by others to ensure that the indices are dependable. Additionally, the utility notes that it does not possess the ability to gauge the veracity of gas price data beyond its own price reporting practices.

We share DWR's concerns about the manipulation of gas price indices and are hopeful that FERC's attention to validate price reporting and the recent enforcement activities concerning fraudulent behavior in this area will strengthen the integrity of published gas price indices. We believe these actions will help provide an incentive to dissuade any entities or persons from engaging in manipulation in this area going forward. Without any evidence to the contrary before us, we find that PG&E's response represents an honest appraisal of its ability to police the reliability of published gas price indices and, therefore, find no need for PG&E to provide the analysis DWR requests. Furthermore, we note that in D. 02-10-062, we authorized the use of a number of procurement

products that are based on indices and see no need to impose a prohibition against the use of such indices in the administration of the gas tolling provisions.²⁴

Issue 3:

DWR seeks clarification of how PG&E intends to provide risk management support.

PG&E notes that its risk management activities are conducted on its customers' behalf and in order to manage its net open position and that any such activity related to the DWR contracts is subsumed in this function.

We find that PG&E has adequately explained its risk management support activities.

Issue 4:

DWR notes that the Gas Supply Plan provides a dollar amount said to be representative of the utility's approved risk tolerance for its entire resource portfolio on a rolling 12 month basis. The agency says the plan does not specify how this risk tolerance is measured nor how much of the dollar amount is expected to be allocated to the DWR fuel positions.

PG&E states that its customer risk tolerance was approved by the Commission in D. 02-12-074, in a confidential appendix. It is noted that the Gas Supply Plan does not and cannot specify how much of the authorized consumer risk tolerance is allocated to the DWR allocated contracts because the utility's open position is a function of its entire resource portfolio.

We confirm that PG&E's consumer risk tolerance level was adopted in D. 02-12-074. However, while the utility may be unable to calculate the specific amount of its customer risk tolerance that corresponds to the DWR contracts, we believe that the utility may be able to provide a reasonable measure to estimate this amount. Accordingly, we direct PG&E to consult with DWR in developing procedures and methods to devise a reasonable estimate of the amount of its consumer risk tolerance related to the DWR contracts.

²⁴ D.02-10-062, p. 38, *mimeo*.

Issue 5:

DWR seeks to change the second paragraph of Section 4.b.vi of PG&E's Gas Supply Plan by subjecting all PG&E gas transactions to a set of protocols, in the form of instructions from principal to agent, to be provided at a future date which can be revised at the Department's discretion. Actions outside the protocols would be subject to prior review and DWR approval. Additionally, DWR wants to: (1) condition all hedges to prior review and approval if the counterparty so requires; (2) prohibit utility self-dealing unless reviewed and approved by DWR; (3) reserve the right to request additional information regarding the plan, impose a dollar limit on transactions, impose restrictions based on limitations to DWR credit and collateral levels, impose additional limitations based upon the Gas Supply Plans approved for SCE and SDG&E, and, (4) require PG&E to certify that each transaction submitted to DWR complies with the approved Gas Supply Plan and protocols.

PG&E generally objects to being bound to a set of protocols it has not seen and argues that doing so is unreasonable. The utility also agrees with the basic principle against self-dealing, but states that without a description of what constitutes such a transaction, it would be difficult to comply with this restriction. It also notes that certain transactions with its business units should not necessarily be considered self-dealing.

The utility does not object to the Department's recommendations that: 1) all gas transactions entered into and on behalf of DWR be presented to and signed by DWR, 2) DWR will review and approve all proposed hedge transactions where a counterparty so requires; and 3) it provide DWR with additional information within the scope of the Gas Supply Plan. Furthermore, PG&E is willing to work with DWR on establishing dollar amount limitations on transactions.

We cannot comment on the merits of DWR's protocols and its affect on the utility's gas procurement actions or on the Commission's regulatory oversight since they are not finalized and made available for our review . It would imprudent to approve such an ambiguous request without sufficient knowledge of the specific conditions DWR seeks to apply and lacking an understanding of the protocol's impact on the relationship and responsibilities of each party under the approved Operating Documents and Commission decisions. We, therefore, deny DWR's request. We remind DWR that the Operating Agreement provides the Department with the discretion to impose certain up-front conditions on the

utilities' gas procurement activities such as gas transportation and storage negotiations. Furthermore, under D.03-04-029 and the Operating Agreement, DWR has the right to approve PG&E's Gas Supply Plan and provides the remedy in cases where the Commission and DWR approve different aspects of the plan, which we will abide by in this resolution. The Department has informed the Commission that it will provide the Commission a final copy of its protocols and notes that to the extent the protocols only authorize a subset of what the Commission has approved, the utilities must operate within the limitations of DWR's approval.

We also deny the following items unrelated to the protocols. On the issue of self-dealing, the bounds placed on the utility's activities discussed above obviate the need for and further review or subsequent approval of such actions. We also find it unnecessary to require the utility to certify that its transactions are in compliance with the Gas Supply Plan, since the utility is bound to observe the approved plan except under the conditions described above.

We find most items DWR seeks to reserve the right to apply not specific enough for us to approve or inappropriate. We deny conditioning PG&E's Gas Supply Plan to those plans approved for SCE and SDG&E. Since each utility has operational differences which their Gas Supply Plans must account for and, thus required each utility to prepare their own specific plans, we refuse to give DWR carte blanche authority to incorporate into PG&E's Gas Supply Plan items approved in the other utilities' plans with which might not be appropriate. On credit and collateral limitations, PG&E specifies in its Gas Supply Plan that it will base its decisions upon the Department's credit and collateral situation, which is consistent with DWR's financial obligations. Since DWR does not specify what dollar limits it seeks to apply, we cannot determine how such limitations may affect the utility's ability to fulfill its obligations under the plan and, therefore, deny DWR's request.

We find the following items, which PG&E also accepts, as reasonable for incorporation into the utility's Gas Supply Plan. These items are: 1) obtaining DWR approval of hedges if required by the counterparty; 2) submitting contracts to DWR for signature, and 3) providing additional requested information to DWR. For those instances involving counterparties requiring DWR approval, we instruct PG&E to document these cases and describe them in its Gas Supply Plans.

Issue 6:

DWR requests that p. 32, third paragraph under “Invoices” of the Gas Supply Plan state that “Approved invoices will be forwarded to CDWR for payment by the 15th of the month.” The Gas Supply Plan should confirm that this reference is the latest date that PG&E will forward invoices to DWR for payment and not a reference to the date by which DWR must make payment. In all cases, invoices should be submitted to DWR at least 10 days prior to the applicable due date. Additionally, DWR requests that the Gas Supply Plan confirm that the utility will present invoices to DWR with all necessary back up documentation.

PG&E accepts DWR’s suggested changes and includes the following suggested language for incorporation in its Gas Supply Plan; “PG&E will forward approved invoices together with all backup documentation to CDWR for payment on or before the 15th of each month, or if the Generator or Supplier submits invoices after the 10th of the month, PG&E will forward this documentation to CDWR ten days prior to the invoice payment due date.”

We find the suggested changes reasonable and will direct PG&E to modify its Gas Supply Plan with the utility’s recommended language through a supplemental filing.

Issue 7:

DWR seeks to add the following sentence to the end of the second paragraph appearing on P. 20, as follows: “PG&E shall obtain CDWR approval prior to establishing such accounts.”

PG&E in response does not object to the substance of the request, however, suggests a modification indicating that the utility will conduct its activities as a limited agent of DWR.

Since the Operating Documents do not require DWR approval to establish such accounts, we will deny the Department’s request. However, we prohibit PG&E from establishing an account with PG&E Gas Transmission Northwest or any other affiliate since such transactions violate standard of behavior No. 1 adopted in D.02-10-062, unless the Commission grants a waiver.

Issue 8:

DWR requests that Commission's approval of the Gas Supply Plan contain a statement acknowledging that plan shall constitute prior consultation with DWR for purposes of the definition of Priority Long Term Power Contracts as that term is defined in the Rate Agreement.

PG&E does not oppose DWR's request, but notes that if the Commission deems such a statement appropriate, it belongs in the resolution approving the plan rather than in the Gas Supply Plan. According to PG&E, this is proper since the Rate Agreement is between DWR and the Commission, and PG&E is not a party to it.

We note that Finding of Fact 35 of D.02-02-051 states that "DWR shall consult with the Commission prior to entering into any additional contract for the purpose of securing fuel if that contract contains such a provision." We find DWR's request reasonable and that approval of PG&E's Gas Supply Plan constitutes "prior consultation" between DWR and the Commission for purposes of complying with D.02-02-051, Appendix C, the Rate Agreement, Article 1, Section 1.1, Definitions, "Priority Long-Term Power Contracts." ²⁵

Issue 9:

DWR recommends that the Gas Supply Plan should include a request for a total budget or dollar amount needed for its hedging activities during the plan's term and include supporting data or necessary explanations.

PG&E explains that its hedging activities are designed to support the management of its entire electric portfolio as described in its short term procurement plan and that the amount needed for hedging over the term of the

²⁵ "Priority Long Term Power Contracts" shall mean (i) those long-term electric power contracts identified in Appendix A, and shall not include any electric power contracts entered into after August 14, 2001; provided, however, that such term shall include any priority long term electric power contract entered into after August 14, 2001, as an amendment or novation of any Priority Long Term Power Contract and (ii) any contracts entered into for the purpose of securing fuel for use at generating facilities being operated pursuant to such Priority Long Term Power Contracts, if that fuel supply contract contains a provision to the general effect that payments by the Department under the contract are to be paid or payable prior to bonds, notes, or other indebtedness of the Department secured by a pledge or assignment of the revenues of the Department under the Act and other amounts in the Fund. The Department shall consult with the Commission prior to entering into any additional contract for the purpose of securing fuel if that contract contains such a provision. Contracts shall cease to be treated as Priority Long Term Power Contracts under the circumstances described in Section 7.8. (emphasis added)

Gas Supply Plan will vary. The utility provided DWR with a dollar amount for use on a planning basis using estimated gas requirements and hedging volumes.

In the event that the information PG&E provided in its response is not satisfactory, we direct PG&E to consult with DWR to develop a suitable methodology for budgeting its gas hedging activities.

Conclusion:

We approve PG&E's Gas Supply Plan, subject to the following modifications:

- 1) The Gas Supply Plan as modified is in effect for the period beginning March 25, 2003 (the date the AL was filed with the Commission) and until the next plan is approved by the Commission.
- 2) PG&E shall include a section stating it will submit all transactions the utility negotiates to DWR for execution and that any such agreement it negotiates will specify that the utility is authorized to act for and on behalf of DWR as a limited agent.
- 3) Transactions outside the scope of the approved Gas Supply Plan are to be documented with the utility explaining why such a departure was necessary and describing the resulting ratepayer benefits.
- 4) PG&E is required to use DWR approved counterparties for all over-the-counter transactions.
- 5) PG&E shall assume the role of Fuel Manager for the Calpeak contract.
- 6) PG&E shall include those suggestions made by DWR that it accepted to adopt and we found reasonable, as discussed above.
- 7) PG&E is directed to confer with DWR concerning procedures and methods to estimate the amount of consumer risk tolerance related to the DWR contracts, and, if necessary, the development of a methodology for budgeting gas hedging activities.

We will also expect PG&E to complete the various analytical models and procedures under development mentioned in its Gas Supply Plan as soon as it is practical. Furthermore, the utility should provide greater detail in its next Gas

Supply Plan explaining how all models and analytical tools will be used (e.g., how rankings are performed, criteria used, etc.) with examples in support of its decision-making processes and definitions of non-standard terms. A more detailed and descriptive plan will obviate the need for staff inquiries and eliminate the attendant delay in approval.

The next Gas Supply Plan should be filed August 15, 2003 for the period of October 1, 2003 through March 31, 2004. This filing should be submitted in accordance with the utility's approved Operating Agreement in effect at the time of filing, as appropriate.²⁶ The Gas Supply Plan approved in this resolution will remain in effect until PG&E's next plan is approved.^{27 28}

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(3) provides that this 30-day period may be reduced/waived by Commission adopted rule.

The 30-day comment period has been reduced per the directive issued in D. 02-12-069 and D.03-04-029, wherein we stated that, "the Energy Division will prepare a resolution for Commission approval on an expedited basis." (pp. 23-24, *mimeo*)

Comments were filed by DWR and PG&E on July 3, 2003. Reply comments were filed by DWR and PG&E on July 8, 2003.

²⁶ D. 03-04-029, PG&E Exhibit B, Part IV, "Utility may also provide a copy of such Gas Supply Plan to DWR in advance of the filing with the Commission so as to be able to indicate DWR's approval of such plan. Utility shall indicate in its Advice Letter filing to the Commission whether DWR has approved such plan as appropriate."

²⁷ D.03-04-029, PG&E Exhibit B, Section IV, provides conditions under which the approval process may be revised.

²⁸ D.03-04-029, "The adopted Gas Supply Plans will remain in effect until subsequent Plans are filed and approved." (see p. 25, *mimeo*)

DWR's comments address draft resolution E-3825 as well as draft resolution E-3833 (concerning Southern California Edison's Gas Supply Plan filed in AL 1701-E) and E-3838 (concerning SDG&E's Gas Supply Plan filed in AL 1489-E). In its opening remarks, DWR limited its comments to specific legal problems and inconsistencies between the draft resolutions.

We will consider the five specific issues DWR raised in its comments as well as PG&E's response to these issues submitted in their reply comments, as follows:

Issue 1: Gas Supply Plan resolutions should recognize that DWR may impose additional requirements on the utilities as DWR's limited agents.

DWR objects to the condition in draft resolution E-3825 authorizing PG&E to enter into hedge transactions without DWR approval and with the draft resolution's characterization that the Department's discretion to impose restrictions on the utility's activities is limited to gas transportation and storage negotiations. DWR notes that under D.03-04-029 the utility is bound to operate within the subset of the Commission's approved Gas Supply Plan subject to the limitations of DWR approval. Additionally, DWR explains that allowing PG&E to consummate hedge transactions without DWR approval may impede their ability to exercise due care consistent with their legal and financial obligations. The Department notes that it does not intend to limit PG&E's hedging transactions resulting from the utility's risk management analysis. DWR points to language presented in draft resolution E-3838 as correctly describing the Department's scope of authority as defined in D.03-04-029.

In reply, PG&E asserts that the resolution should not change the relationship between DWR and the utility which is not consistent with the Operating Agreement and states that DWR's proposed modification is inappropriate. On the issue of hedging, the utility agrees with DWR's argument that the Department should approve hedging transactions.

We concur with DWR that it may impose limitations on the utilities' gas procurement activities, however, the scope of this authority is not unbounded. As PG&E suggests, the Operating Agreement defines the types of limitations the Department may place on the utility and that providing DWR with any authority exceeding this contractual arrangement would improperly modify D.03-04-029. These limitations are summarized in D. 03-04-029, which adopted the Operating Agreement between PG&E and DWR, as follows:

“Notwithstanding our policy preference that DWR be allowed to end its involvement in gas purchasing, we will approve the provisions requiring DWR to participate in the fuel management activities as contemplated in the Agreements. The revisions allow DWR to provide the utility’s with additional up-front information regarding contract limits, approved suppliers, which the utilities will then incorporate into their Gas Supply Plans and gas procurement activities.” (D.03-04-029, p. 22, *mimeo*)

Additionally, D.03-04-029 specified that DWR as well as the Commission is to review and approve the utility’s Gas Supply Plan and provides a remedy for cases where conflicting authorizations may arise. We agree with PG&E that DWR may not impose conditions which alter the relationship and areas of responsibility between the Department and the utility established under the approved Operating Agreement and Commission decisions. The draft resolution has been modified to clarify this situation.

On the issue of hedging, although we prefer that the utilities be responsible to make the final decision concerning these activities (as expressed in D. 02-12-069), we will grant DWR’s request and agree with PG&E’s position and have eliminated the draft resolution’s explicit authorization indicating that PG&E may enter into hedge transactions without DWR approval.

Issue 2: DWR protocols in the form of instructions from principal to its agent.

DWR discusses discrepancies between the draft resolutions concerning consideration of its proposal to impose protocols on the utilities activities presented in its comments to the utilities’ Gas Supply Plan advice letters. DWR says the uncompleted protocols will be provided to the Commission when they are finalized. In brief, DWR describes the protocols as distinct from the utilities’ Gas Supply Plans and are instructions in the form of principal to agent. As such, the Department does not intend to integrate the protocols into the utilities’ Gas Supply Plans nor seek Commission approval for their application. DWR provides suggested language for incorporation into the resolutions reflecting its position.

In reply, PG&E notes that it is subject to Commission jurisdiction and, in contrast to DWR’s intentions, believes that Commission approval of DWR’s protocols is appropriate and will seek to gain such approval when the protocols are released.

Additionally, PG&E recommends that a procedure be established to provide the utilities' with direction in the event of a conflict between DWR's protocols and the approved Gas Supply Plans.

Since DWR's protocols remain incomplete, we cannot determine if they require Commission review, approval or are outside the scope of the utilities' Gas Supply Plans. The draft resolution denied the imposition of these protocols on this basic concept and we will maintain this stance. We will note that DWR will provide the Commission a copy of the finalized edition and that the Department recognizes the utilities' responsibility to operate within the limitations of the Commission's and DWR's authorization. Regarding PG&E's concern about conflicts, we will examine this issue in further depth when the nature of DWR's protocols and its relationship with the Operating Agreement and Gas Supply Plans is clarified. We have modified the draft resolution to reflect this discussion.

Issue 3: Commission approval of the Gas Supply Plans constitute prior consultation between DWR and Commission concerning the Rate Agreement.

DWR says that the draft resolutions inconsistently consider this request which was presented in its comments to the Gas Supply Plan advice letters. The Department notes that the SCE draft resolution E-3833 correctly adopts this provision.

In reply, PG&E does not oppose DWR's request, but notes that this is a matter between the Commission and DWR.

Per the conditions expressed in D. 02-02-051, we agree with DWR and find this condition acceptable and adopt the suggested language in the resolution.

Issue 4: DWR notes that draft resolution E-3825 and E-3838 erroneously states that the utilities are responsible to pay gas invoices.

In reply, PG&E agrees with DWR's comments that the Department is responsible to pay gas invoices.

We agree with DWR that the Department and not the utilities' are responsible to pay gas invoices, as specified in D. 02-12-069. The draft resolution has been modified to reflect this condition.

Issue 5: DWR recommends that the resolutions ensure that the utilities provide DWR with sufficient time to validate and submit invoices for payment.

PG&E did not offer any comments on this issue.

DWR says that it requires five business days to process the payment of invoices. The Department noted that its concerns rests with draft resolutions E-3833 and E-3838. This condition was adopted in PG&E's draft resolution.

Turning to PG&E's comments, the utility says that it accepts the modifications of its Gas Supply Plan presented in the draft resolution except for four issues, discussed as follows.

Issue 1: Standard of review for activities for the period of January 1, 2003 and March 24, 2003.

PG&E notes that the draft resolution does not comment on the standards of review the Commission will use for actions taken under the Operating Order for the period of January 1, 2003 through March 24, 2003 and requests that the resolution include an ordering paragraph indicating that its actions during this period was governed under the Operating Order.

Since the subject of the resolution is the approval of PG&E's Gas Supply Plan, we decline to comment here on what standards of review are applicable during the period of time prior to the plan's effective date.

Issue 2: Services obtained from PG&E affiliates or its own utility operations.

PG&E accepts the basic premise concerning self-dealing, but believes that services obtained under standard tariff terms and rates should be deemed per se reasonable and suggests a modification to the draft resolution's pricing test for negotiated services. While agreeing with a presumption of reasonableness standard for negotiated services based on the "volume weighted average prices PG&E negotiated with others" (excluding deals with DWR), the utility recommends that a different timeframe be used for calculating this benchmark. Rather than use 12 month historical pricing data, the utility suggests that a forward-looking standard be employed using the volume weighted average of similar transactions between PG&E's Market Center or Gas Storage and other

parties in the same month that they are transacted. Such a standard was said to align the presumption of reasonableness standard with current market prices, particularly relevant during times of price volatility.²⁹ Additionally, PG&E requests that transactions above this weighted average should be reviewed on their merits and not be presumed per se unreasonable. In addition, PG&E will use the Request For Offer (RFO) process to procure all firm storage services on behalf of DWR and that any service contract resulting from a competitive solicitation or RFO be deemed per se reasonable.

We find that PG&E's suggestion to amend the draft resolution's presumption of reasonableness standard and base it on the same month that the transaction occurred acceptable since a 12 month historical average may not account for existing market conditions and could mask the influence of any seasonal variations in the pricing of negotiated services. Additionally, we will accept the utility's request that services negotiated at prices above this level are not per se unreasonable although require the utility to be able to show why such transactions were appropriate. We will amend the draft resolution to reflect this modification. We decline to categorically deem that services priced at tariff rates or under the RFO process are per se reasonable without the benefit of examining such transactions in detail.

Issue 3: Maintaining confidentiality.

PG&E requests that one item in the confidential version of the draft resolution remain redacted or be deleted because it may disadvantage its negotiating position with suppliers.

We find that the item PG&E prefers to remain confidential does not represent information necessary to support our decision in this matter and have thus deleted it.

²⁹ As an illustration, PG&E included in its comments two graphs showing the price volatility and resulting deviation from the mean price level for its parking and lending service during the period of August 2002 through June 2003.

Issue 4: Imbalance penalties.

PG&E argues that the draft resolution's requirement that it absorb any imbalances it caused does not consider cases where incurring the imbalance penalty was reasonable due to the circumstances. The utility presents a number of situations where an imbalance penalty may occur (e.g., generation units tripping off, transmission congestion, etc.) and that the draft resolution assumes that the utility can always avoid such penalties. Thus, the utility requests that the Commission review the reasonableness of any imbalance penalties caused by the utility as DWR's agent.

We find that the Operating Documents clearly express where the responsibility lies in connection with imbalance penalties. D. 03-04-029, PG&E Exhibit B, Part IX states, "Utility shall also be responsible for any penalties imposed by gas transportation providers for imbalances caused by Utility, due to its failure to exercise prudent gas management practices." (The Operating Order adopted in D.02-12-069 has the identical provision.) We will hold PG&E to this condition as expressed in the Operating Documents. If the utility believes that it unjustly absorbed imbalance charges, it can seek relief from the Commission on a case-by-case basis.

In its reply comments, DWR considered the comments concerning Resolutions E-3838 and E-3833.

FINDINGS

1. PG&E filed AL 2359-E on March 25, 2003 requesting expedited approval of its Gas Supply Plan for DWR contract gas tolling provisions for the period of March 1, 2003 through August 31, 2003.
2. ORA filed comments on April 4, 2003 in support of the AL except for the conditional use of DWR credit and that the utility's activities should be reviewed in the utility's ERRA filing.
3. PG&E filed a reply to ORA's comments on April 8, 2003 contesting ORA's interpretation of the purpose of the ERRA proceeding and the suggested use of DWR credit.
4. DWR filed comments on April 7, 2003 recommending approval of the AL subject to the imposition of protocols and other conditions as well as requesting additional information about the Gas Supply Plan.

5. PG&E filed a reply to DWR's comments on April 11, 2003 rejecting DWR's request for imposing protocols except in certain limited applications.
6. PG&E filed AL 2359-E prior to the effective date of its Operating Agreement with DWR.
7. PG&E is subject to the Operating Order adopted in D.02-12-069 until approval of its Operating Agreement on April 17, 2003.
8. It is reasonable to review the Gas Supply Plan filed in AL 2359-E under the terms and conditions of the Operating Agreement, as of April 17, 2003 and the Operating Order prior to this date.
9. D.02-09-053 established an annual review of the reasonableness of the utilities' administration of DWR contracts.
10. D.02-09-053 order PG&E to administer several DWR power contracts, some of which contain gas tolling provisions.
11. D. 02-10-062 established minimum standards of behavior governing the utilities' administration of its generation resource portfolio, which includes DWR contracts.
12. PG&E's Gas Supply Plan filed in AL 2359-E contains most of the elements specified in the Operating Order and the Operating Agreement.
13. It is reasonable to require PG&E to modify its Gas Supply Plan to conform to the terms and conditions of the Operating Order and Operating Agreement.

THEREFORE IT IS ORDERED THAT:

1. PG&E AL 2359-E and the utility's Gas Supply Plan is approved as modified as follows:
 - a) the Gas Supply Plan will be in effect for the period beginning March 25, 2003 and until PG&E's next Gas Supply Plan is approved by the Commission;
 - b) the proposal to condition gas transportation and storage transactions exceeding terms of three months or \$10 million dollars subject to DWR approval is denied per the terms and conditions of PG&E's approved Operating Agreement;
 - c) the addition of risk management products is subject to Commission approval;

- d) the utility is required to use DWR approved counterparties for over-the-counter risk management transactions. In the event PG&E believes such a limitation is too restrictive or problematic it shall confer with DWR to develop mutually satisfactory counterparty creditworthiness standards for inclusion in its next Gas Supply Plan.
 - e) the utility must observe the standards of behavior adopted in D.02-10-062, including the prohibition against self dealing.
- 2. PG&E is authorized to pursue activities outside the scope of the approved Gas Supply Plan, subject to Commission reasonableness review, in the event extraordinary circumstances arise and it is necessary for the utility to meet its administrative and operational responsibilities consistent with Commission decisions. PG&E shall document and describe these occurrences including an explanation of resulting ratepayer benefits. Additionally, the utility is required to notify DWR and the Commission's Energy Division when contemplating taking such actions via a letter.
 - 3. PG&E is authorized to transact for utility owed facilities or services according to the strategies presented in the utility's approved Gas Supply Plan subject to this presumption of reasonableness standard:
 - a) In cases where an RFO is issued and offers are received, it is presumed that a reasonable price is paid if PG&E's charge to DWR for the use of the utility's facilities or services is the same as or lower than the bid(s) received.
 - b) In cases where there are no competitive alternatives for comparison, it is presumed that a reasonable price is paid if PG&E's charge to DWR for the use of the utility's facilities or services is either: 1) the tariff recourse rate for the service; or 2) if the price is negotiated, no higher than the volume weighted average of the price the utility negotiated (except for DWR) for each similar service in the same month and for the same period the service is provided.

PG&E is directed to provide, on a confidential basis, the volume weighted average of the prices PG&E negotiated for these services with all customers (excluding deals for DWR) for the same periods as those services entered into

on behalf of DWR to the Commission's Energy Division staff. PG&E shall also retain RFO's and bids involved in the consideration of using the services of competitors and provide these to the Commission's Energy Division staff confidentially.

4. PG&E is directed to assume the role of Fuel Manager for the Calpeak contract.
5. PG&E shall file a supplement to AL 2359-E with a revised Gas Supply Plan as follows:
 - a) remove references to submitting gas transportation and storage deals exceeding terms of three months or value of \$10 million for DWR review and approval;
 - b) include procedures for forwarding negotiated agreements to DWR for execution as contemplated in the Operating Order and Operating Agreement;
 - c) specify that the addition of financial risk management tools are subject to Commission approval;
 - d) assume the role of Fuel Manager for the Calpeak contract.
 - e) include the approved recommendations of DWR identified in OP 11, and
 - f) the presumption of reasonableness standard discussed in OP 3.
6. The supplemental advice letter referred to in OP 5 shall be filed within 10 days of the effective date of this resolution effective March 25, 2003, subject to Energy Division review.
7. PG&E is directed to confer with DWR to develop procedures and methods to develop estimates of the consumer risk tolerance related to DWR contracts and, if necessary, to develop a suitable methodology for budgeting gas hedging activities.

8. PG&E shall retain any and all analysis, forecasts, related information and material used to support decisions made under the Gas Supply Plan for Commission review.
9. PG&E is ordered to file its next Gas Supply Plan on August 15, 2003 for the period of October 1, 2003 through March 31, 2004 which includes the information specified in OP 12.
10. ORA's recommendation to condition the use of DWR credit under certain circumstances is denied.
11. DWR's protest is denied except for: 1) requiring PG&E to submit all gas transactions entered on behalf of DWR be presented to DWR and signed by DWR; 2) allowing DWR to review and approve all hedge transactions requiring DWR approval if a counterparty so requires; 3) submitting information to DWR within the scope of the approved Gas Supply Plan at DWR's request, and 4) modification of the invoice approval process.
12. PG&E's next Gas Supply Plan shall contain all required information specified in the Operating Order or the utility's Operating Agreement, as applicable and include the following:
 - a) a proposed plan for obtaining gas storage capacity as of April 1, 2004 as well as proposed minimum storage targets for May 31, 2004, including estimated storage related costs;
 - b) a proposal showing how unused pipeline or storage capacity can be made available to the other utilities in connection with their DWR contract related duties or brokered;
 - c) detailed information describing models and analytical techniques (e.g., inputs for cost/benefit analysis, ranking procedures, criteria, etc.) including examples used for making decisions pursuant to the Gas Supply Plan as well as definitions of non-standard terms, and
 - d) the presumption of reasonableness standard adopted in OP 3.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on July 10, 2003; the following Commissioners voting favorably thereon:

WILLIAM AHERN
Executive Director